United States Department of the Interior

FISH AND WILDLIFE SERVICE
East Lansing Field Office (ES)
2651 Coolidge Road, Suite 101
East Lansing, Michigan 48823-6316

IN REPLY REFER TO:

March 15, 2010

Ms. Melanie Haveman
U.S. Environmental Protection Agency
Wetlands and Watersheds (WW-16J)
77 West Jackson Boulevard
Chicago, Illinois 60604

Re: State of Michigan File No. 09-52-0086-P, applicant Woodland Road LLC

Dear Ms. Haveman:

We have reviewed the above referenced Public Notice (PN) for a Michigan Department of Natural Resources and Environment (MDNRE) permit under the authority of Part 301, Wetlands Protection, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended. The proposed project would occur in Marquette County, Michigan in Champion Township (T49N, R29W, Sections 2, 11, 14, 23, 25, 26, and 36; T49N, R28W, Sections 31 and 32; T48N R29W Sections 1, 25, 26, and 35; T50N, R28W, Section 18), Ely Township (T48N, R28W, Sections 5, 7, 8, 18, 19 and 30), Michigamme Township (T50N, R29W, Sections 13, 23, 24, 26, and 35), and Humboldt Township (T47N, R29W, Section 2). We provide these comments under the authority of the Fish and Wildlife Coordination Act, the Endangered Species Act of 1973, as amended (Act) and in accordance with the Service's Mitigation Policy.

According to the information provided with the Public Notice and on the MDNRE permit website, the applicant proposes to construct a 22.3 mile long road from Triple A Road south to US-41. The road would provide a route for transport of mining, timber, and aggregate products. Additionally, the road may facilitate easier access for public recreational use.

The road would require the upgrading or construction of several river or stream crossings. Crossings would be located on the Middle Branch Escanaba River, Second River, Koops Creek, Voelkers Creek, Dead River, Wildcat Canyon Creek, Mulligan Creek, Yellow Dog River and several un-named tributaries. In addition, filling of wetlands is necessary to allow the road to traverse these areas. A total of 23 stream crossings and the direct impact of 27.1 acres of wetlands would result from the proposed project. The applicant proposes to mitigate for wetland impacts by completing a combination of wetland preservation, restoration, and creation.

Application materials state that 90% of the proposed Woodland Road alignment would follow existing roads and trails. Based on our review, only about 3.5 miles of the proposed road would

utilize an existing road which can accommodate consistent two way vehicle traffic. Some portions of the proposed road would cross upland and wetland areas which are currently free of road or trail impacts. Much of the proposed road, however, would utilize a snowmobile trail (Trail A). The upgrading of this trail to accommodate large two-way tractor trailer transportation will greatly alter the landscape. The proposed road, at 32 feet in width, is several times wider than the current trail. In addition, the trail will require significant excavation or fill to create a 32 foot wide road base and to maintain a <5% grade along most of the road corridor. So, although the proposed road will not traverse a "road-less" area, it will change the conditions along the road corridor appreciably.

Fish and Wildlife Coordination Act Comments

ON-SITE RESOURCES

A biologist from our office inspected the proposed road corridor with you, MDNRE, and a representative from A. Lindberg and Sons, Inc. on February 24 and 25, 2010. Observations of flora and fauna were limited due to time of year and several feet of snow covering the ground. Based on trees present, it appears that the proposed corridor consists of a diversity of habitats from upland northern hardwood forests to cedar swamp. The corridor is primarily forested and relatively un-developed. During our site visit, we were able to observe most of the stream crossings. Due to the size of the project, remoteness of some sites, and time limitations, we did not visit all of the proposed wetland crossings.

The proposed project would cross a diversity of stream and wetland habitats. Based on our observations, the road would traverse a variety of stream types from small intermittent streams to larger perennial streams/rivers. Wetland types ranged from open sedge meadows to forested cedar swamps. The majority of wetlands, however, are forested wetlands. Based on the wetland impacts provided with the application, 20.6 of the 27.1 acres involve forested wetlands. These streams and wetlands likely provide a diversity of habitat for a variety of migratory birds, mammals, fish, amphibians, reptiles, and invertebrates.

Migratory Birds

Migratory birds receive protected under the Migratory Bird Treaty Act and are Federal trust resources. The applicant's consultant surveyed birds along the entire length of the proposed road corridor. Results from these efforts identified 41 species during fall migration, 70 species during spring migration, and 65 species during the breeding season. Surveys in 2007, 2009, and 2009 as part of revising the Breeding Birds of Michigan, found a similar number of breeding species along Wolf Lake Road. The locations of the surveys corresponded fairly well with the southern 1/3 of the proposed road corridor. These surveys identified over 50 species of breeding birds in this area (Brian Johnson, bird surveyor, pers. comm. 2010). Many of the species identified breed in or adjacent to wetlands and streams.

POTENTIAL IMPACTS AND ALTERNATIVES ANALYSIS

Adverse impacts to wildlife and fisheries resources would likely result from the proposed project. From the information provided, the applicant has not avoided and minimized wetland

and stream impacts to the maximum extent practicable. Our mitigation policy states that wetland impacts should first be avoided and then minimized before compensatory mitigation is proposed.

Direct Impacts

In addition to the 27.1 acres of wetland impact and 23 stream crossings as described above, direct stream and wetland impacts may result from the relocation of Trail A. As the proposed Woodland Road corridor would utilize the Trail A alignment, the snowmobile trail would need to be relocated. The impacts associated with this relocation were not included in the permit application or discussion of alternatives. As the snowmobile trail relocation is a direct result of the proposed road construction, wetland impacts associated with the relocation should be included in this project.

Indirect Impacts

We are concerned that development of the road would not only directly impact wetlands, but indirectly impact the remaining wetlands along the road corridor. The road could significantly alter the hydrology of the remaining wetland habitat and cause habitat fragmentation. For example, at the Porcupine Swamp crossing (Station 538+00 on the design drawings) the proposed road will cross a cedar swamp and directly impact 1.04 acres of wetland. Construction of the road at this location includes both excavation of a 7 foot layer of peat and placement of fill 30 feet above the ground surface. This excavation and fill will indirectly impact the remaining wetland in two ways. First, the removal of peat along a linear strip will likely impact the wetland's hydrology. The two remaining wetland areas on either side of the road may be degraded if hydrologic connection between them is severed or if the road materials change sub-surface water flow. Second, the addition of 30 feet of fill above the original ground elevation will create a barrier and severely inhibit animal movement. This is especially true of amphibians, turtles, and reptiles which are unlikely to successfully climb up a steep, 30 foot embankment, cross the road, and descend the 30 foot embankment back to the wetland.

So, although a relatively small direct impact to wetland is predicted at Porcupine Swamp (1.04 acres), a larger indirect impact to wetlands is expected. Alteration of hydrology and fragmentation could result in permanent habitat degradation of remaining on-site wetlands. These types of indirect impacts are not isolated to just the Porcupine Swamp wetland crossing. We noted multiple locations throughout the road corridor where significant fill (> 10 feet) or excavation (>5 feet) would be necessary. We believe the 27.1 acres of direct wetland impact does not capture the larger indirect impacts to wetlands associated with this project.

In addition to hydrologic changes and wetland habitat fragmentation, several other indirect impacts to wetlands and streams were articulated in comment letters provided by the Wildlife and Fisheries Divisions of the Michigan Department of Natural Resources and Environment (dated January 15, 2010 and January 19, 2010, respectively). We agree that these additional indirect impacts could further impact wildlife and aquatic resources along the proposed road corridor.

Alternatives

To avoid and minimize direct and indirect impacts, we recommend reconsidering the use of current transportation routes such as County Road 510 and County Road 550. Using existing routes which require less modification then the Woodland Road corridor would greatly reduce "new" indirect effects on streams and wetlands. Since these roads are already in place, we expect that hydrologic modification and habitat fragmentation have already occurred in wetlands and streams associated with these routes.

Based on the alternatives analysis, tractor trailers currently use several existing roads that connect Triple A to US-41. The upgrading of these roads as outlined in Alternatives 2, 3, and 4 would allow for all-season use and would appear to meet the purpose identified. Compared to the proposed Woodland Road, Alternative #2 appears to have fewer wetland impacts (~0.4 acres) and fewer stream crossings (4 crossings). This route would require 600 feet of stream re-location in an area where the current road is adjacent to the stream. The analysis concluded that Alternative #2 "…. will be used if a more prudent alternative is not considered." This suggests not only that Alternative #2 has less impacts to wetlands and streams, but also is a viable alternative.

MITIGATION

The applicant proposes to mitigate wetland impacts with 10 acres of wetland preservation, 3.52 acres of wetland restoration, and 52.85 acres of wetland creation. We believe that the proposed mitigation is not adequate for the following reasons:

Wetland Preservation:

- For preservation of wetlands to qualify for mitigation a threat to the 10 acres of proposed wetland preservation must be present. The applicant has not demonstrated that this site is currently threatened.

- Inadequate information is provided to evaluate whether the entire 10 acres is forested wetland.

Wetland Restoration:

- Restoration of wetland by removing road fill and culverts provides limited ecological value, especially when completed adjacent to new wetland and stream impacts. Although we agree the removal of fill and culverts associated with abandonment of Trail A is necessary, we disagree with its use as wetland mitigation.

Wetland Creation:

- Small, scattered wetlands created in borrow pit areas is unlikely to replace the ecological values associated with the forested, emergent, and scrub-shrub wetlands impacted by the project.

- The specific acreage of emergent, scrub-shrub, and forested wetlands identified at each site may not be realistic. An explanation is necessary to demonstrate how each site provides the appropriate topography, hydrology, soils, and other characteristics to create forested, emergent, or scrub-shrub wetlands.

- At locations where created wetlands adjoin existing wetlands, impacts to existing wetlands could occur via sub-surface and surface drainage. In these instances, the applicant should implement measures to protect the hydrology of the existing wetlands.

- Several wetland creation sites are currently intact forest communities. Conversion of these sites from upland forest to wetland would result in further fragmentation and habitat loss.

Stream Mitigation:

- The applicant should incorporate stream mitigation into the project to offset impacts associated with the 23 stream crossings.

Endangered Species Act Comments

Three species protected under the Act may be present within the proposed road corridor: gray wolf, Kirtland's warbler, and Canada lynx. According to the permit application materials, two packs of gray wolves likely exist along the proposed route. During our site visit, one stand of young jack pine was observed near the Second River stream crossing. This suggests that Kirtland's warbler may be present along the road corridor. Application materials confirm that several potential Kirtland's warbler habitat areas occur near the proposed road. Additionally, we recommend analyzing potential impacts of the road to the threatened Canada lynx. Recent observations in 2003 and 2010 indicate that dispersing lynx may occur in the Upper Peninsula.

Based upon the information provided in the public notice and our knowledge of listed species, we suggest that the proposed Woodland Road project may affect listed resources. Prior to permit issuance, you should coordinate with our office. Through this coordination appropriate permit conditions may be identified which reduce or eliminate impacts to listed species.

Summary Comments

We recommend that MDNRE not issue a permit for the project. Adverse impacts to fish and wildlife resources are expected as a result of direct and indirect impacts on wetland and streams. Alternative transportation routes that utilize existing main roads should be re-considered. In

addition, the proposed mitigation may not adequately replace the functions and values of the impacted wetlands.

We appreciate the opportunity to provide our resource protection recommendations. If you have any questions regarding our comments, please contact Christie Deloria of our U.P. sub-office at 906/226-1240.

Sincerely,

Field Supervisor

cc: Michigan Department of Natural Resources and Environment, Land & Water Management Division, Gwinn, MI (Attn: Mike Smolinski)
Michigan Department of Natural Resources and Environment, Land & Water Management Division, Crystal Falls , MI, (Attn: Cary Gustafson)
Michigan Department of Natural Resources and Environment, Land & Water Management Division, Lansing, MI (Attn: Peg Bostwick)